

or planning at the discretion of the recipient.

[63 FR 12349, Mar. 12, 1998, as amended at 77 FR 71527, Dec. 3, 2012]

§ 1000.238 What percentage of the IHBG funds can be used for administrative and planning expenses?

Recipients receiving in excess of \$500,000 may use up to 20 percent of their annual expenditures of grant funds or may use up to 20 percent of their annual grant amount, whichever is greater. Recipients receiving \$500,000 or less may use up to 30 percent of their annual expenditures of grant funds or up to 30 percent of their annual grant amount, whichever is greater. When a recipient is receiving grant funds on behalf of one or more grant beneficiaries, the recipient may use up to 30 percent of the annual expenditure of grant funds or up to 30 percent of the annual grant amount, whichever is greater, of each grant beneficiary whose allocation is \$500,000 or less, and up to 20 percent of the annual expenditure of grant funds or up to 20 percent of the annual grant amount, whichever is greater, of each grant beneficiary whose allocation is greater than \$500,000. HUD approval is required if a higher percentage is requested by the recipient. Recipients combining grant funds with other funding may request HUD approval to use a higher percentage based on its total expenditure of funds from all sources for that year. When HUD approval is required, HUD must take into consideration any cost of preparing the IHP, challenges to and collection of data, the recipient's grant amount, approved cost allocation plans, and any other relevant information with special consideration given to the circumstances of recipients receiving minimal funding.

[77 FR 71527, Dec. 3, 2012]

§ 1000.239 May a recipient establish and maintain reserve accounts for administration and planning?

Yes. In addition to the amounts established for planning and administrative expenses under §§ 1000.236 and 1000.238, a recipient may establish and maintain separate reserve accounts only for the purpose of accumulating amounts for administration and plan-

ning relating to affordable housing activities. These amounts may be invested in accordance with § 1000.58(c). Interest earned on reserves is not program income and shall not be included in calculating the maximum amount of reserves. The maximum amount of reserves, whether in one or more accounts, that a recipient may have available at any one time is calculated as follows:

(a) Determine the 5-year average of administration and planning amounts, not including reserve amounts, expended in a tribal program year.

(b) Establish $\frac{1}{4}$ of that amount for the total eligible reserve.

[77 FR 71527, Dec. 3, 2012]

§ 1000.240 When is a local cooperation agreement required for affordable housing activities?

The requirement for a local cooperation agreement applies only to rental and lease-purchase homeownership units assisted with IHBG funds which are owned by the Indian tribe or TDHE.

§ 1000.242 When does the requirement for exemption from taxation apply to affordable housing activities?

The requirement for exemption from taxation applies only to rental and lease-purchase homeownership units assisted with IHBG funds which are owned by the Indian tribe or TDHE.

§ 1000.244 If the recipient has made a good-faith effort to negotiate a cooperation agreement and tax-exempt status but has been unsuccessful through no fault of its own, may the Secretary waive the requirement for a cooperation agreement and a tax exemption?

Yes. Recipients must submit a written request for waiver to the recipient's Area ONAP. The request must detail a good faith effort by the recipient, identify the housing units involved, and include all pertinent background information about the housing units. The recipient must further demonstrate that it has pursued and exhausted all reasonable channels available to it to reach an agreement to obtain tax-exempt status, and that failure to obtain the required agreement and tax-exempt status has been through no fault of its own. The Area